

Union Township Board of Supervisors
Regular Board Meeting
July 13, 2015

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:10 p.m. The meeting was held at the Union Township Municipal Building, 3904 Finleyville-Elrama Road, Finleyville, PA. The pledge of allegiance was recited.

Board Members in Attendance by roll call were Stephen Parish, Larry Spahr, Charles Trax, Paul Chasko, Edward Frye. Also in attendance, Chris Furman—Solicitor, Mr. Carl DeiCas—Township Engineer, Judy Taylor—Treasurer, Debra Nigon—Secretary, Harold Ivery—Building Code Official, and Peter Grieb—Code Enforcement Officer.

Public Comment

Karen Povich, 211 Stonebridge Drive, complained of headaches related to Tomko burning at night. She needs windows open at night and she is smelling fumes from burning which she believes contains chemicals. She said she received a letter about violations at Tomko and is concerned. Also she expressed concern about whether Union Township could handle a hazardous spill if it were to occur on Route 88.

Linda Morrow, 10 Boyka Drive, commented that living in Boyka Plan, has been horrible due to the noise every morning at 7:00 a.m. and the clouds of smoke from the Tomko business. She commented that she cannot open her windows and can't sit on her porch due to the dust. Later in the meeting, Ms. Morrow asked that our Ordinances be reviewed and/or be rewritten so that construction can't be done on Sunday and so that the kind of noise that they are hearing is limited and kept in check. She also complained about not being able to cook or entertain outside.

Residents complained that the noise from the site starts as early at 6:00 a.m. If work was beginning at 6:00 a.m., this would be a violation of the Township's Ordinance since he is not to be starting until 7:00 a.m.

Mr. Richard Bennett, 3 Boyka Drive, also commented about the noise and said a realtor told him that his house would be hard to sell due to the situation. He asked the Board to consider a new dust ordinance and noise ordinance.

Frank LaTorre, 7 Boyka Road, said he had attended many meetings and complained that there was no action by the Board, zoning officers, etc., and that no one is minding the store. Mr. Furman reminded Mr. LaTorre of the many court cases that have been litigated including those during which he testified as a witness.

A resident who had not signed in commented about twenty or thirty trucks he sees go in and out of the site daily and issues with the transport of crushed rock that is under investigation. Also, he complained about the pounding which begins at 6:00 a.m. and the trouble this causes him with trying to fall asleep due to work shifts he has at night. He also complained that work

continued on the 4th of July. He said the noise and dust interferes with the residents being able to entertain or take food outside because of the dust which falls on food.

Cody Polfus, resident of Boyka Plan, complained about the dust and expressed concern over the health risks to residents and children in the area should silica be present in the dust.

The Chairman of the Board and the solicitor responded to each individual as they were speaking and made various points as follows.

Mr. Furman asked the residents if the dust has improved in the last year which they said it had not. He requested that others beside Mr. Breinig and Mr. LaTorre stay in contact by submitting pictures and letting the Board know what is going on as Mr. Breinig and Mr. LaTorre have been characterized as complainers. If others have issues, they need to speak up.

Mr. Spahr explained that just a couple weeks ago the Planning Commission reviewed Tomko's site development plan and approved it with conditions. The Township engineer, James Harshman, thoroughly reviewed the site plan and provided his comments. A hearing will be held to address the zoning questions on July 23, 2015 in the Union Township Board Room before the Zoning Hearing Board which is a quasi-judicial body with its own attorney, Robert Clarke, who advises the Zoning Hearing Board on zoning issues. Mr. Spahr suggested those concerned should attend.

In regard to burning, Mr. Spahr responded that there is an ordinance to control burning and no hazardous material can be burned. Also, he noted that the DEP and EPA have been at Tomko several times.

In regard to the noise, Mr. Furman made note that the Board authorized third-party noise testing at the Tomko site which was not yet conducted. Locations were identified and it may be possible to add dust monitoring. At the time, some of the work was ending and it was decided to wait until a more noisy portion of the project was underway. Mr. Furman said that the PSI study that was authorized can be reconsidered now due to the number of noise complaints. However, Mr. Furman cautioned the residents not to allow the funding for third-party testing to go to waste by testing at a time when the business is more than likely to be found compliant. He explained that the tests cannot be done over and over and the Board is trying to be good steward of the necessary funds.

In regard to the Ordinance questions, Mr. Spahr explained that Ordinances must be constitutional since they would apply to everyone and every business in the Township and that the Board must be careful not to infringe on the legal rights of other parties. Also, an Ordinance cannot be biased against a business and be seen as so restrictive that it interferes with their right to conduct business or the Township can face litigation. Mr. Spahr said the point of view about the dust ordinance is that it would be in effect for every one in the Township and there has never been a problem with dust before. He noted that Mr. Tomko did install a watering system to control the dust.

Due to questions on the type of business which is permitted on the property, Township solicitor, Chris Furman, explained that on the property zoned C2, Mr. Tomko is permitted to

have a contractor's business but not a contractor's yard; however, in the year 2000 he got special permission from the Board that was sitting at the time to keep building materials outside. It is the keeping of building materials outside which would be a violation of C2. One of the variances Mr. Tomko is applying for pertains to keeping these materials outside.

Mr. Spahr mentioned the many times the Township has been in court over issues at Tomko. Mr. Furman provided a history of litigation in regard to the request to stop work due to mining, the DEP consent order on the dangerous condition of the high wall, litigation over work on Sundays, etc., for the benefit of Ms. Morrow and other attendees. It was noted that there was an investigation occurring in regard to mining and the possible transport and sale of rock mined at the site. Mr. Furman inquired as to whether, in light of the Bureau of Mines investigation, Mr. Harshman can be sent to review the property and give the Board a determination as to whether the business is mining or not.

The solicitor will prepare an Ordinance to go before the Board regarding Sunday construction being forbidden.

Mr. Furman asked the residents to call his office to ask any additional questions.

Pete Guido, 125 Viareggio Way, had a question about the construction schedule to be supplied by the Tuscany Estates developer. Mr. Furman spoke to the developer's counsel prior to the meeting who informed him that he has applied with the sewer authority and the schedule would be provided by Wednesday of next week. Mr. Furman also said that the Township received an Earth Disturbance Report from the DEP regarding various items which must be done to bring him into compliance in regard to erosion and sedimentation. Mr. Guido confirmed that a hearing will be held before the magistrate on their complaint on Wednesday at 1:15 p.m. before Judge Ellis in McMurray, so that someone could attend from Tuscany Estates to observe.

A resident inquired as to whether, once the homes on Viareggio Way and Cinque Terra are completed, the roads will be brought up to PennDot standards and top coated. Mr. Furman said that, per the terms of the developer's agreement, a finishing coat will not be placed on the roads in the development until 80% of the total development is complete. However, to sell the lots on Viarreggio, he will have to install the infrastructure and sewer materials that are stored on-site.

2014 Audit Review

Charlie Ruppert, CPA, Cypher and Cypher presented the 2014 Audit.

Mr. Ruppert provided a Powerpoint presentation which he reviewed with the Board. He reviewed the balance sheets for the Townships general fund, capital reserve fund, non-major funds, and unassigned fund balance. He explained that the significance of the fund balance is that it is the working capital and the contingency fund which gives the Township the ability to plan. For 2014, the Township brought in 2.29 million and spent 2 million, resulting in a \$268,000 increase in the fund balance.

He reviewed the budget in comparison to the actual revenues and expenditures and explained the discrepancies occurred due to expenditures in General Government which were reimbursed from the Local Share Fund for the garage addition construction project and in Highways from a delayed 2013 paving project.

His concluding comments based on the analysis were for the Board to continue monitoring the procurement card in regard to the type of disbursements being made although this was doing well, and to continue the segregation of duties. He noted that Ms. Taylor does a very good job with the books and records and they are in good shape.

Mr. Spahr asked Mr. Ruppert for a summary on the general condition of the Township. In response, Mr. Ruppert explained that operationally the Township may be faced with some struggles as revenues are tightening and as the ratcheting of expenses continues, which is always a concern. Nonetheless, the Township is in good financial condition.

Departmental Reports

Police Report. Sargeant Pocsatko read the statistics for 61 shifts of coverage provided for June. Mr. Spahr announced that additional traffic details have been funded due to complaints about traffic at the last session. He provided a packet of information from SWRPD to each Board member about the traffic details to be conducted.

Road Report: Tom Mellor gave the road report. A written report was also provided to the Board. Mr. Mellor said that, due to many recent storms, the crew performed a lot of tree removal in the past month. Mr. Mellor reviewed the photographs he had taken of the Township bridges during his inspection which were provided to the Board. The pipe under the bridge on Ridge Avenue is starting to rot out and the walls are deteriorated. Mr. DeiCas will prepare a drawing. Also, the pipes under many of the bridges are starting to deteriorate and brush removal also needs to be done. In regard to the issue reported by Mr. Wietrzykowski, the pipe on the property needs to be exposed to make a determination. Mr. Mellor also informed the Board that the exhaust fan in the garage addition was not up to code. The trunk line needs to be re-done.

Solicitor Furman brought the Board up to date on the issue of documents being held by Chester Engineers. He said that Chester Engineers sent an email recently with a list of documents and asked us to identify what documents we wanted from the list. He will forward it to the Board.

Motion to approve general fund bills in the sum of \$56,244.42, as of July 13, 2015 as presented by the Treasurer, subject to being true and correct.

Motion by Paul Chasko, Second by Ed Frye

Roll call vote: Parish-yes, abstaining from anything having to do with Finleyville Airport, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The 2015 Paving Project bids which were opened on Friday were discussed. The base bid included McClelland Road and Lobbs Run Road. Mr. DeiCas supplied a bid tabulation to the

Board. Morgan Excavating was the low bid. The bid tabulation provided by the Township Engineer is attached to these Minutes. Ed Frye suggested that the Board approve only the base bid. Mr. Parish requested that the Board consider using the reserve to award Alternate #1 as well. Alternate #1 adds the paving of Aber Road. The Treasurer was asked her opinion. She stated that the funds were not in the budget and that there is already a lot of unbudgeted money being spent out of the General Fund for the under drainage the road crew is doing on McClelland Road. Also, there is the cost of flushing the cross drains by Robinson Pipe Cleaning which was approved at the last meeting, but not included in the bid. Mr. DeiCas said he had only received a time and materials price for Robinson Pipe Cleaning and needed an estimate for the whole job. However, the Treasurer said ultimately it is up to the Board to decide whether and how it wants to spend the fund balance.

Mr. Spahr and Mr. Parish said the up side of doing the project is that the paving contractor would be down on Lobbs Run and have the equipment there near Aber to complete that end of the Township. Another point made was that Aber Road will ultimately need to be paved and the price would probably only be more and not less in the future.

Motion to award the 2015 Paving Project to Morgan Excavating for a base bid of \$212,267.00 and Alternate #1 bid of \$51, 270.00 for a total of \$263,927.00.

Motion by Steve Parish, Second by Chuck Trax

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-no. Motion carried.

Motion to advertise a Workshop for review the codification and for general business for Monday, July 20th at 6:00 p.m.

Motion by Steve Parish, Second by Chuck Trax

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

In regard to the Finleyville Airport Tree Hazard Removal Project, Mr. Chasko said it was decided at the last meeting to authorize stump grinding and clean-up work. At that time, he had to determine what trees were included in the aviation bureau report. Mr. Chasko reviewed with the rest of the Board the photographs of additional trees to be removed. He informed the Board that on one side of the runway there are about 10 more trees which need to be removed. Sidelines Trees Service has not been anxious to get the other half of their payment and Mr. Chasko still has to meet with them and perhaps Mr. Furman or Mr. Makel will need to get involved. Mr. Chasko prepared a Request for Quotes (RFQ) that contains all the work necessary for work on the left side of runway as you are looking northwest which will include all the trees identified on that side of the runway. He will be taking vacation and the secretary can send the RFQ out with quotes due on Friday, July 24.

Motion to request quotes for tree removal and remedial services on the left side of the Finleyville Airport runway as you are looking northwest.

Motion by Paul Chasko, Second by Ed Frye

Roll call vote: Parish-abstain, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Mr. Frye said that he has concerns about the amount of money being spent on the project but that he voted yes to obtaining quotes.

Mr. Furman asked for authorization to have Harshman Engineers make visits to the Tomko site.

Motion to authorize Harshman Engineers to visit the Tomko site on a semi periodic timeframe to determine status of noise, dust, and mining.

Motion by Ed Frye, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

In regard to a question about the WESA proposal for sewer billing, the Treasurer said that it appears to shift expenses to the Township budget from individuals and that fees for delinquencies will be less burdensome to the residents. Mr. Frye informed the Board that the proposal is not complete and represents only half the proposal. There is a section that will be for delinquent collection by the attorney which has not yet been received.

Regarding Overlook, Mr. DeiCas has a module almost complete. He informed the Board that we could meet in South Park sometime in August. It was noted that any documents related to the Overlook Street sewage project were needed right away from Chester Engineers to make the work move more quickly. Chris Furman will contact Chester Engineers about these documents.

Sunoco is laying another pipe in our right of way. The drawing they provided when they applied initially showed two pipes even though Township informed them at that time that another pipe would be another \$10,000. It was determined to ask them to pay the easement fee when they reapply.

Mr. DeiCas was asked for an update on the creek erosion project on Patterson Road which is affecting the property of Mr. Snee. Mr. DeiCas said that nothing is currently being done on the project and he hasn't received a definitive negative or positive response from Tomko as to whether the work will be done. Mr. DeiCas and Mr. Mellor will take a look at the site to determine whether the Township can install the gabion baskets.

It was requested that a letter be sent to Senator Bartolotta and Representative Saccone regarding the SR88 Froman Run Stabilization Project and about the dangerous situation created with the pipe under the road requesting that PennDot expedite the repair.

Motion to authorize that a letter be sent to Senator Bartolotta and Representative Saccone in regard to the dangerous situation on SR 88 and on the flooding on Courtney Hill Road.

Motion by Paul Chasko, Second by Ed Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to allow Ringgold Midget Football to use the Brownsville Park soccer fields for conditioning from 5:45 p.m. to 8:15 p.m. on Tuesday, July 21, 2015, Thursday, July 23, 2015, Tuesday, July 28, 2015, and Thursday, July 30, 2015, subject to a certificate of insurance being supplied.

Motion by Steve Parish, Second by Paul Chasko

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Board Approved: July 27, 2015

In regard to the private sewer line requested by Mr. Brnilovich, Mr. DeiCas said that if the Board would want to allow Mr. Brnilovich to use the Township right of way on McChain Road it may cause a problem with PA One Call.

The National Incident Management System compliance questionnaire was discussed. Mr. DeiCas suggested Judy Taylor call PSATS to see if they could assist with completion of the NIMS documentation.

Chris Furman will review the drainage release form supplied by Carl DeiCas regarding directing storm water off McClelland Road into a farm pond on the Felix property.

John Matola, 21 Maple Street, commented about the paving of Maple Street last year. He said that the asphalt appears older than it should and the middle seam was never sealed nor the edges and they are beginning to crack. Also, there are cracks appearing for no apparent reason. He asked whether sealing was supposed to be included in last year's paving project. Carl DeiCas and Mr. Parish will look at Maple Street.

Motion to accept and advertise the 2014 Audit.

Motion by Paul Chasko, Second by Ed Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to adjourn at 9:45 p.m.

Motion by Steve Parish, Second by Paul Chasko

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.


Debra A. Nigon, Secretary